

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Arnold M. de Guzman (Reg. No. 39,955) on 2/20/08.

The application has been amended as follows:

In the claims:

In claim **1**, on line 10, delete the portion "upon receipt of a reply from the second node or", such that step (d) reads "transmitting a subsequent message from the first node upon the elapsed time of transmission of the message exceeding an elapsed time threshold, wherein the elapsed time threshold is determined by a size of the message, a virtual number of nodes over the network, and a minimum transmission rate of the network".

In claim **7**, on lines 8-9, delete the portion "upon receiving a reply relating to a prior data transmission or", such that step (c) reads "transmitting additional data onto the network upon the time interval exceeding a threshold time interval, wherein the threshold time interval is determined by a size of the data, a virtual number of nodes over the network, and a minimum transmission rate of the network".

In claim **9**, on lines 8-9, delete the portion "upon receipt of a reply from the at least one second node or", such that the second paragraph of the claim body reads "the

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first node including a processor for determining an elapsed time between data transmission, wherein subsequent data is transmitted from the first node upon the elapsed time exceeding an elapsed time threshold, wherein the elapsed time threshold is determined by a size of the data, a virtual number of nodes over the transmission medium, and a minimum transmission rate of the transmission medium".

***Allowable Subject Matter***

2. Claims **1-16, 19, and 21** (*renumbered 1-18, respectively*) are allowed.

3. The following is an examiner's statement of reasons for allowance:

Regarding *amended* claims **1, 7, and 9**, these claims are now allowable for the reasons indicated in the previous Office Action pertaining to now cancelled claims **17, 18, and 20**.

Regarding claims **2-6, 8, 10-16, 19, and 21**, these claims are further limiting to the above *amended* claims and are thus also allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. MOORE, JR. whose telephone number is (571)272-3168. The examiner can normally be reached on Monday-Friday (7:30am - 4:00pm).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing F. Chan can be reached at (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit 2619

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Examiner, Art Unit 2619

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02/25/08